

Frequently Asked Questions:

Coral Reef Commons Habitat Conservation Plan

1. Why did the Service approve the habitat conservation plan and issue an incidental take permit for the Coral Reef Commons project?

The applicants met issuance criteria for an ITP. The Endangered Species Act requires the following criteria to be met before the Service can issue an incidental take permit. If these criteria are met and the HCP and supporting information are statutorily complete, the permit must be issued.

The criteria:

- a. The taking will be incidental. Under the ESA, all taking of federally listed fish and wildlife species as detailed in the HCP must be incidental to otherwise lawful activities and not the purpose of such activities.
- b. The applicants will, to the maximum extent practicable, minimize and mitigate the impacts of such taking.
- c. The applicants will ensure that adequate funding for the HCP and procedures to deal with unforeseen circumstances will be provided.
- d. The taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild.
- e. The applicants will ensure that other measures that the Services may require as being necessary or appropriate will be provided.
- f. The Service has received assurances as may be required that the HCP will be implemented as specified.

2. Why isn't the Service concerned that the Coral Reef Commons development will continue and perhaps hasten the pace of the loss of pine rockland habitat in South Florida?

Although the project will develop 32.28 acres of pine rockland habitat within the development footprint it also places over 51 acres of pine rockland habitat under a permanent conservation easement, which the applicants commit to manage as high quality pine rockland habitat. The applicants expect overall improvement in habitat value resulting from the on-site Preserves management will over time increase the abundance of covered species on the CRC property. The project will also improve the management of an off-site area, which although it is already under conservation, could benefit from improved management to support the listed species occurring on its approximately 50 acres.

3. How can the Service not decide this is a jeopardy situation for the Miami tiger beetle? How can that not jeopardize their continued existence?

Our biological opinion concluded that this action is not likely to jeopardize the continued existence of Miami tiger beetles or any of the other imperiled species found in the area. In fact, our analysis concluded that the habitat management proposed in the on and off-

site preserves will cause a net increase in the Miami tiger beetle population. The increase in Miami tiger beetle numbers resulting from habitat enhancement is expected to exceed the decrease resulting from habitat loss.

4. Will the Service monitor the applicants to make sure they live up to the incidental take permit and what they say they'll do in their HCP?

The Service must monitor the applicants' implementation of the HCP and the permit terms and conditions. Adaptive measures in the HCP allow for flexibility in meeting HCP objectives. The Service has legal remedies under the ESA to ensure compliance with the permit.

5. The applicants say they'll do controlled burns to help maintain the pine rocklands viability. Is that really possible in an urban setting?

The applicants worked with Florida Forestry Service to develop their burn plan included in the HCP to create a strategy that they believed would be successful. It includes several measures, such as small burn units and reducing fuel loads prior to burn that the Service believes will make the plan successful. In addition, to accommodate prescribed burning in the on-site preserves, the applicants propose to follow "firewise" construction and landscaping guidelines posted at www.firewise.org. Specifically, the layout of the development and landscaping will observe the Home Ignition Zone (HIZ) guidance about establishing and maintaining a defensible space between residential units and the on-site preserves where prescribed fire will occur.

6. Why did the Service decide to do an Environmental Assessment rather than an Environmental Impact Statement for this project?

Nothing rose to the level of significance that mandated the EIS level of analysis. There was controversy, but controversy alone doesn't necessitate an EIS.

7. What is a Habitat Conservation Plan or HCP?

HCPs are planning documents required as part of an application for an incidental take permit, when a development is proposed on non-federal lands, without any federal funding and without a license or permit issued by another federal agency. HCPs can include both listed and non-listed species as well as those that are candidates or have been proposed for listing. The incidental take permit can be issued for all the species, but does not include protected plant species. In developing HCPs, permit applicants describe measures designed to avoid, minimize and mitigate the effects of their actions--for the purposes of ensuring that species affected will be conserved and the conservation plan will contribute to their recovery.

8. What is an environmental assessment or EA?

An environmental assessment (EA) is a concise public document, prepared in compliance with the National Environmental Policy Act, that discusses the purpose and need for an action, alternatives to such action, and provides sufficient evidence and analysis of impacts to determine whether to prepare an Environmental Impact Statement or Finding of No Significant Impact (FONSI). In the case of Coral Reef Commons, a FONSI was issued.

9. What needs to be in an HCP?

The contents of an HCP include:

- An assessment of impacts likely to result from the proposed taking of one or more federally listed species.
- Measures the permit applicant will undertake to monitor, minimize, and mitigate for such impacts; the funding that will be made available to implement such measures; and the procedures to deal with unforeseen or extraordinary circumstances.
- Alternative actions to the taking that the applicant analyzed, and the reasons why the applicant did not adopt such alternatives.
- Additional measures that the Service may require as necessary or appropriate.

10. Did the Service consider public input before making this decision?

There was a 60-day public comment period, as well as a webinar that was open to the public to discuss this project. The Service thoroughly evaluated the public comments it received and used the best available information to prepare the biological opinion that outlines our decision on the Coral Reef Commons project. Responses to the public comments are provided in the “Findings” documents that can be seen at www.fws.gov/verobeach.

11. Could the Service have denied the applicant an ITP for this project? If so, would that have meant they couldn’t have proceeded with it?

If they hadn’t met the prescribed criteria (see question 1), the Service would’ve denied the ITP application. That would not mean applicants couldn’t proceed with their construction plans. However, if they’d chosen to move forward without an ITP and approved HCP, they would’ve been subject to investigation and possible enforcement remedies under the ESA if they were found to be in violation of Section 9 of the ESA and “took” a listed species.

12. Why did the Service even consider the applicants’ proposal?

The Service is legally required to do so. The applicants have invested a lot of time and money into the voluntary process of developing an HCP. The ESA is not designed to stop development or hinder business interests. Under the ESA, the Service has a responsibility to work with developers to find reasonable avenues that allow for development, and at the same time minimize impacts to protected species and the habitats they depend on; with the ultimate goal of working together to prevent the extinction of imperiled species.

13. Why have HCP applications consistently been approved?

The ESA was never intended to be a substitute for local planning decisions. The Service sees this as a positive tool aimed at finding balance between our conservation goals and local economic development activities where possible. It also is the result of effective collaboration between the Service and the applicants.

14. How much pine rockland habitat is left in South Florida?

Destruction of pine rocklands for economic development has reduced this habitat in Miami-Dade County, including Everglades National Park, to about 11 percent of its natural extent, from about 183,000 acres to about 20,100 acres in 1996. Outside of ENP, only about 1 percent of the Miami Rock Ridge pinelands remain, mostly in small tracts that are isolated from other natural areas.

15. What species is the applicant authorized to take since they were issued the ITP?

The ITP covers Bartram's scrub-hairstreak butterfly, Florida leafwing butterfly, Florida bonneted bat, eastern indigo snake, rim rock crowned snake, gopher tortoise, Miami tiger beetle, and white-crowned pigeon. Listed plants are included in the conservation plan; however, an ITP is not required for plants under the ESA. All take must be incidental to the otherwise lawful action.

16. Is the Service satisfied that the mitigation and protective measures listed in the HCP will be enough to prevent the extinction or even the degradation of protected species in those pine rocklands?

The Service evaluated the HCP to determine if it provides the required level of conservation and funding assurances. In the biological opinion prepared for this HCP, we determined that none of the covered species were threatened with jeopardy.

17. What was the baseline from which the project's ecological benefits were calculated?

The Service consulted with the County to determine whether the applicants' project proposal (proposed action) was in compliance with county's ordinances and laws. The Service considers the condition of the property when the ITP application was received to be the baseline condition of the habitat.

18. Is there a cooling off period between when the ITP was issued to applicants and when they can start work?

The permit is effective beginning Dec. 5, 2017.